6973540/2023/CV SEC-SOW01

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Social Welfare Department - APHC – W.P.No.23102 of 2020 filed by Sri Kolakaluri Koteswara Rao, S/o Nagaiah, Vengalaya Palem, Guntur Rural against G.O.Ms.No.71, S.W.(CV.1) Dept., dated 25.02.2019 dismissing the appeal petition of the petitioner duly upholding the proceedings dated: 24.11.2018 of the District Collector, Guntur in cancelling his SC-Madiga caste certificate - Orders dated:11.12.2020 of Hon'ble High Court to give Opportunity/notice to the parties affording a personal hearing - Representation/Appeal filed by the Appellant/Petitioner – Allowed- Orders - Issued.

SOCIAL WELFARE (CV.1) DEPARTMENT

G.O.Ms.No.1. Dated: 03.01.2023
Read the following:-

1. Proceedings of the District Collector, Guntur, Rc.No.773/2014/C4, dated 24.11.2018.
2. Appeal Petition filed by Sri Kolakaluri Koteswara Rao, S/o Nagaiah, Occ: ZPTC Member, through his Counsel, before the Hon'ble (SWE&C), Endt No. 1915/SWE&C/2018, dt: 26.12.2018.
3. G.O.Ms.No.71, S.W.(CV.1) Dept., dated 25.02.2019.
4. From the Deputy Registrar, APHC, Order dt:11.12.2020 in WP No.23102 of 2020 filed by Sri KolakaluriKoteswara Rao, S/o Nagaiah, VengalayaPalem, Guntur Rural, Guntur District.
5. From the OSD to Secretary to Hon'ble CM, Lr.No.155/Adv(PA)/OSD-SECY.CM/2021, dt.02.03.2021 along with representation of Sri Kolakaluri Koteswara Rao.
6. Govt. Memo No.1415834/SW.CV.1/2021, dt.02.08.2021, dt.09.09.2021 & dt.17.08.2022.
7. From the District Collector, Guntur, letter RC.No.773/2014/C4, dt.31.01.2022 & 03.09.2022.

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ORDER:

In the reference 1st read above, the District Collector, Guntur, has issued proceedings cancelling the SC Hindu Madiga Caste certificate in favour of Sri Kolakaluri Koteswara Rao, the appellant herein. Aggrieved by the proceedings of the District Collector, Guntur, Sri Kolakaluri Koteswara Rao has filed WP No.47034 of 2018 before the Hon'ble High Court of A.P. against the said proceedings. The Hon'ble High Court of A.P., while disposing of the said WP on 30.01.2019 has directed the Government to receive the appeal filed by the petitioner under Section 7(2) of the AP (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of issue of Community Caste Certificates Act, 1993 and Rules, 1997 and pass appropriate orders.

2. In the reference 2nd read above, Sri Kolakaluri Koteswara Rao, S/o Nagaiah has filed an appeal petition before the Government, against the proceedings of the District Collector, Guntur and Government after examination has admitted his Appeal petition. The District Collector, Guntur has furnished the Parawise remarks and the connected records as called for, on the Appeal Petition filed by Sri Kolakaluri Koteswara Rao, S/o Nagaiah. The said appeal petition has been posted for hearing on 05.01.2019, 02.02.2019, 09.02.2019 and finally on 16.02.2019.

3. Further, after hearing both the sides and on perusal of the records, the Government have issued orders in the reference 3rd read above dismissing the appeal petition of Sri Kolakaluri Koteswara Rao duly upholding the proceedings of the District Collector, Guntur in cancelling his SC-Madiga caste certificate, dated: 24.11.2018.

[Contd..on P.2]

4. Aggrieved by the above orders, Sri Kolakaluri Koteswara Rao has again filed W.P.No.23102 of 2020 before the Hon'ble High Court and the Hon'ble High Court have passed the order on 11.12.2020 as below:

> "this writ petition is allowed and the impugned order in G.O.Ms.No.71, Social Welfare (CV.1) Department, dt:25.02.2019 is set aside and the matter is back to the 1st respondent with a direction to give notice to the parties in the appeal and after affording a personal hearing to them and on considering the evidence in right perspective, pass an appropriate order on merits in accordance with the governing law and rules expeditiously but not later than three months from the date of receipt of a copy of this order."

5. While disposing of the above W.P., the Hon'ble High Court held that as can be seen from the observations, the contention of the petitioner is that he produced his school records before the lower authority to show that he belongs to Hindu Madiga – SC, but the lower authority has not considered the same, that he also contended that the complainant failed to prove before the lower authority that the petitioner contested in 1995 elections with BC-C caste certificate and the said certificate is of Kolakaluri Jacob, but it does not belong to the petitioner; that after mentioning this contention, the appellate authority stated that on verification of the documents and the grounds of appeal and para-wise remarks and other documents and material available on record, it was noticed that except the above contention nothing was placed for appreciation of the appellate authority; that on the other hand, as per the revenue record and other documents, it was clearly established that Sri Kolakaluri Koteswara Rao, son of Nagaiah and Sri Kolakaluri Jacob, son of Francis are one and the same and that the appellant contested in 1995 elections on a BC-C community caste certificate and SC community certificate in 2014 elections and the burden is on him to prove his contentions, but he failed in this regard; that on such observation, the appellate authority seems to have confirmed the order of the 2nd respondent; that the Hon'ble High Court unable to appreciate the finding of the 1st respondent for the main reason that except mentioning that the documents and other reports confirmed that the petitioner belongs to Christian Madiga-SC and that he contested in 1995 elections on BC-C community certificate, the appellate authority has not pellucidly discussed the contents in those documents which weighed with him to come to such conclusion.

6. It is further held by the Hon'ble High Court that under law, the appeal is a continuation of the original proceedings from the lower court or forum and the first appellate authority shall take into consideration the factual and legal aspects meticulously and appreciate the evidence touching the facts, and to give its finding as to whether the facts pleaded by either party are established to the satisfaction of the said authority or not. In this case, though the 1st respondent has noted down the vehement contention of the petitioner that he only belongs to Hindu SC and produced the school records to that effect, however, unfortunately, did not bestow its attention to find out whether such record is a genuine one or a fabricated one. Unless a logical finding is arrived at by meticulously weighing the oral and documentary evidence, a laconic finding bereft of the evaluation of evidence will not stand to scrutiny before the higher forum. Therefore, the order passed by the 1st respondent is liable to be set aside and the matter requires to be remanded to the 1st respondent with a direction to afford an opportunity of personal hearing to the petitioner and after considering the documentary evidence placed before the 2nd respondent, give a finding basing on the evidence. Accordingly, the Hon'ble High Court set aside the orders issued in G.O.Ms.No.71, SW dated 25-02-2019 and the matter is remitted back to Govt. for fresh disposal.

7. The appellant, Sri Kolakaluri Koteswara Rao, filed his application enclosing the Aadhar, House Tax receipt, Caste Certificates issued to him and his family members and requested to allow his appeal in the reference 5th read above. The said copies were sent to the District Collector, Guntur and requested him to verify the contents of the documents filed by the appellant in support of his claim and furnish detailed report to Government for taking further action in the matter in the reference 6th read above. In turn, the District Collector, Guntur has obtained reports on the above from the Revenue Divisional Officer and the Deputy Director, Social Welfare, Guntur and submitted his report to Government in the reference 7th read above.

[Contd..on P.3]

8. A close reading of the said report reveals, that as per the enquiry, Sri Kolakaluri Koteswara Rao son of Nagaiah is a resident of Vengalayapalem, H/o. Ankireddypalem village of Guntur West Mandal, Guntur District, that as per the school admission register, of RCM Elementary School, Vengalayapalem, he studied I to V from 1976-77 to 1980-81; that he studied VI to X in St. Paul's High School, Phirangipuram, Guntur from 15-06-1981 to 28-03-1987, with admission No.8778, that later he joined in Hindu College High School, Guntur for Studying X Class and as per the said certificates of the respective schools, his religion caste is Hindu-Harijana Madiga; that as per the Community, Nativity and Date of Birth Certificate issued by the then Mandal Revenue Officer, Guntur, dated 29-7-2022 the Caste of Sri Koteswara Rao is "Madiga" (SC). Further, it is to be noted that Sri Kolakaluri Nirmala Babu, son of Nagaiah and Sri Kolakaluri Vinaya son of Nagaiah and Sri Kolakaluri Prasanth, son of Nagaiah all are the brothers of Sri Kolakaluri Koteswara Rao and Kolakaluri Rajamani d/o. K. Nagaiah is his own sister. Sri Kopalle Butchaiah, resident of Kathevaram (v), Tenali Mandal, Guntur District his son is Sri Kopalle Suresh Babu. Sri Kolakaluri Koteswara Rao's paternal aunt's son is Lanka Ramesh Babu, son of Prakash Rao, resident of Vengalayapalem. As per their study certificates as well as the caste certificates issued by the concerned Tahsildars, they are all Hindu-Madiga (SCs).

9. The District Collector, who got the above certificates verified has reported that the said certificates are true and genuine. The matter stood posted for hearing on 08-11-2022 at 12.30 PM. Both the parties i.e., appellant and the 4th respondent-complainant and Superintendent on behalf of 1st respondent have attended the hearing.

10. The appellant has submitted his written brief/arguments along with certain documents such as his Driving License and the Family Ration Card and Health Card and requested to set aside the impugned G.O. The respondent No.4-complainant has stated that he already filed all papers and there are no fresh material to submit and requested to uphold the orders already issued in the impugned G.O.

11. While reiterating the grounds of appeal, the appellant in his written brief/arguments stated that from the childhood, he studied Classes I to V in RCM Elementary School, Vengalayapalem, and VI to X in St. Paul's High School, Phirangipuram, Guntur, and later he joined in Hindu College High School, Guntur and all the certificates concurrently contain his caste as Hindu-Madiga-SC, that he never contested the 1995 Panchayat Elections with B.C-C Certificate in the name of one Sri Jacob; that he is nothing to do with Sri Kolakaluri Jacob. In this regard, the specific contention of the appellant herein is that being the resident of the same village, it is highly improbable to contest the Panchayat Elections in 1995 with a different name. He studied there from childhood in the said village and the study certificates fortify that he belongs to Scheduled Caste only. It is further contended that the 4th respondent-complainant after having defeated in the ZPTC elections in 2014 against the appellant herein, propped up a false case as if the appellant contested 1995 Panchayat elections with different name and caste B.C.-C with a cock and bull story by introducing unconcerned and irrelevant documents only with an intention to take revenge against the appellant. The emphatic submission of the appellant is that had he contested 1995 elections, the complainant ought to have protested his contesting the 2014 elections itself instead of waiting till declaration of results and contesting after having been defeated in the said elections.

12. The appellant further added that he submitted all relevant proof of documents such as his caste certificates from his childhood including that of his brothers, sister, maternal uncle and other close relatives, which clinches the issue in his favour and they cannot be brushed aside, which is to be taken in compliance with the obligation cast upon under Section 6 of Act 16 of 1993.

13. The appellant had also submitted copies of his Driving License which was Aadhaar Authenticated with No.AP 00720150003846 while that the copy of the driving license in the name of Mr. Jacob as depicted in the copy of the sale-deed attesting the said sale deed was with different number as well as the date of validity of the DL. The appellant also produced the Ration Card and the Health Card through which it reveals that his family consists of 3 (three) members, himself, his wife and a daughter. The A.P. State Housing

[Contd..on P.4]

Corporation application though contains names of Kolakaluri Jacob as well as Kolkaluri Koteswara Rao (with difference in the spellings of surname to both) indicates that the family consists of 5 (five) members. Hence, there are discrepancies in the documents furnished by the appellant vis-à-vis the 4th respondent complainant. With all these discrepancies, the documents furnished by the 4th respondent-complainant, cannot be taken as concrete proof to cancel the Caste Certificate initially issued by the Tahsildar.

14. The District Collector has not examined the matter in a proper perspective while disposing of the case, so also the Government initially while confirming the orders of the District Collector in G.O.Ms.No.71, S.W. (CV.1) Department Dt.25-02-2019, which were ultimately set aside by the Hon'ble High Court.

15. After hearing both sides and on perusal of the entire record, the copies of evidence / academic record / grounds of appeal / the report of the District Collector including the orders of the Honble High Court in the instant case, it is observed that the documents produced by the 4th respondent vis-à-vis the documents furnished by the appellant do not tally each other and clubbed with the conduct of the 4th respondent in putting-forth his claim after having been defeated in the elections for ZPTC in 2014 reveals that he failed to establish his contentions beyond reasonable doubt and therefore the matter weighs in favour of the appellant that he hails from Scheduled Caste.

16. After careful re-consideration of all the material on record and the reasons enumerated above, Government have now come to an irresistible conclusion that Sri Kolakaluri Koteswara Rao son of Sri Nagaiah of Vengalayapalem, belongs to Hindu-Madiga Scheduled Caste and that the cancellation of the SC Certificate of the said Sri Kolakaluri Koteswara Rao by the District Collector is vitiated by errors apparent on record and therefore is liable to be set aside.

17. In view of the several reasons recorded in the paras supra, the Government in exercise of the powers conferred under Section 7(2) of A.P. (Scheduled Castes, Schedule Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act No.16 of 1993), hereby allowed the Appeal Petition filed by Sri Kolakaluri Koteswara Rao, son of Sri Nagaiah of Vengalayapalem, duly upholding his claim as Scheduled Caste (Hindu-Madiga) community and the impugned proceedings of the District Collector, Guntur issued in the reference 1st read above is hereby set aside.

18. The Collector & District Magistrate, Guntur is directed to take necessary consequential action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

G. JAYALAKSHMI
PRINCIPAL SECRETARY TO GOVERNMENT(FAC)

To
The Collector & District Magistrate, Guntur.

Sri Kolakaluri Koteswara Rao, S/o Nagaiah,
VengalayaPalem, Guntur Rural, Guntur District.
(through the District Collector, Guntur with a request to serve it and submit the served copy to Government)

Sri Jandrasupalli Nageswara Rao,
S/o Sesharao, Perecharla Village,
Medikonduru Mandal, Guntur Dist.
(through the District Collector, Guntur with a request to serve it and submit the served copy to Government)

Copy to:
The OSD to the Hon'ble Minister(SW).
The PS to Principal Secretary(SW).
Sf/Sc(E-1415834)

// FORWARDED:: BY ORDER //

SECTION OFFICER